

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WILFREDO BATISTA and ANNA SANCHEZ,

Plaintiffs,

**DEFENDANT CITY'S
NOTICE OF MOTION**

-against-

05 Civ. 8444 (KMK)

THE CITY OF NEW YORK, STATE OF FLORIDA:
DEPARTMENT OF CORRECTIONS; STATE OF
FLORIDA: TAMPA EAST DIVISION AND PAROLE,

Defendants.

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PLEASE TAKE NOTICE that upon the annexed 56.1 Statement, dated December 18, 2006; the Declaration of Hillary A. Frommer, dated December 11, 2006 and the exhibits attached thereto; the Memorandum of Law, dated December 11, 2006; and all of the pleadings and papers heretofore had herein, the undersigned will move this Court, before the Honorable Kenneth M. Karas, United States District Judge for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse 500 Pearl Street, New York, New York 10007, for an Order, pursuant to the Federal Rule of Civil Procedure 56, granting the motion for summary judgment by defendant City of New York to dismiss the Amended Complaint in its entirety with prejudice on the grounds that: (1) plaintiffs failed to establish municipal liability against defendant City of New York; (2) plaintiff Anna Sanchez cannot sustain a claim against the City based on a purported right of companionship; and (3) plaintiffs' state law claims fail as a matter of law.

PLEASE TAKE FURTHER NOTICE that plaintiff's opposition papers, if any, shall be served upon counsel for defendant City, on or before February 20, 2007; and

PLEASE TAKE FURTHER NOTICE that defendants' reply papers, if any, shall be served upon plaintiff on or before March 30, 2007.

Dated: New York, New York
December 11, 2006

MICHAEL A. CARDOZO
Corporation Counsel of the City of New York
Attorney for Defendant City
100 Church Street
Room 3-212
New York, New York 10007
(212) 788-0823
By: 
Hillary A. Frommer (HF 9286)
Assistant Corporation Counsel

TO: Joy Bunch, Esq.
Brogdon & Bunch, LLP
Attorneys for Plaintiffs
250 Fulton Avenue, Suite M200
Hempstead, New York 11550

Gerald D. Siebens, Esq.
Assistant Attorney General
Florida Office of the Attorney General
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Tampa, Florida 33602

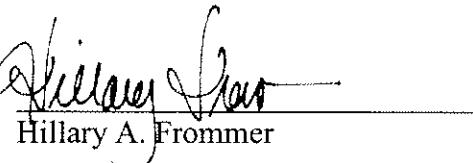
CERTIFICATE OF SERVICE BY MAIL

I, Hillary A. Frommer, declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury, that on December 18, 2006, I served the annexed **Defendant City's Notice of Motion, Defendant City's Statement of Uncontested Material Facts Pursuant to Local Rule 56.1., and the Declaration of Hillary A. Frommer and exhibits attached thereto** upon the following counsel of record by depositing a copy of same, enclosed in a first-class postpaid properly addressed wrapper, in a post office/official depository under the exclusive care and custody of the United States Postal Service, within the State of New York, directed to said attorney at the address set forth below, being the address designated by said attorney for that purpose:

Joy Bunch
Law Offices of Brogdon & Bunch, LLP
250 Fulton Avenue
Suite M200
Hempstead, New York 11550

Gerald D. Siebens,
Assistant Attorney General
Office of the Attorney General
Tampa Civil Litigation Bureau
501 East Kennedy Boulevard, Suite 1100
Tampa, Florida 33602-5237

Dated: New York, New York
December 18, 2006



Hillary A. Frommer

Index No. 05-Civ-8444 (JES)

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SOUTHERN DISTRICT OF NEW YORK

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THE CITY OF NEW YORK, STATE OF FLORIDA:
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Defendants.

**DEFENDANT CITY OF NEW YORK'S MOTION FOR
SUMMARY JUDGMENT**

MICHAEL A. CARDODOZO

*Corporation Counsel of the City of New York
Attorney for Defendant City of New York
100 Church Street
New York, N.Y. 10007*

*Of Counsel: Hillary A. Frommer
Tel: (212) 788-0823
NYCLIS No. 05SF025552*

Due and timely service is hereby admitted.

New York, N.Y., 200.....

..... Esq.

Attorney for